

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**FREDRICK SYKES**

**PLAINTIFF**

**V.**

**NO. 4:16-CV-125-DMB-DAS**

**BRIAN PAYNE, et al.**

**DEFENDANTS**

**ORDER**

On June 17, 2016, Frederick Sykes filed a lawsuit against Sheriff Milton Gaston, Sr.; Warden Brian Payne; and Chief Clay Williams, alleging that he was refused appropriate medical care after he was attacked at the Washington County Regional Correctional Facility by three inmates and a correctional officer. Doc. #1 at 1–2, 5. Sykes subsequently failed to appear at a *Spears*<sup>1</sup> hearing scheduled for October 20, 2016, although on September 3, 2016, he acknowledged receipt of the notice setting the hearing. Doc. #14; Doc. #16; Doc. #17. On October 20, 2016, United States Magistrate Judge David A. Sanders issued a Report and Recommendation concluding that Sykes' lawsuit should be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute. Doc. #18. After receiving the Report and Recommendation, Sykes filed the instant motion on November 7, 2016, seeking to dismiss this action with prejudice. Doc. #19; Doc. #20.

Upon consideration, Sykes' motion to dismiss [20] is **GRANTED**. This action is **DISMISSED with prejudice** and, in light of dismissal, the Report and Recommendation [18] is **REJECTED as moot**. A final judgment consistent with this order will issue.

**SO ORDERED**, this 22nd day of November, 2016.

/s/ Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**

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<sup>1</sup> *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).